

The FCC is seeking comments on “whether [the FCC] should grant AHA’s request for a blanket waiver of Section 97.113(a)(3) to permit amateur operators who are hospital employees to participate in emergency drills that are conducted by hospitals for accreditation purposes and that are not government-sponsored.” **I submit that the FCC should not grant such waiver.**

The AHA Shows No Compelling Need for the Waiver

When an petitioner petitions the FCC for a waiver, this petitioner should a) demonstrate that the waiver is required, and b) *detail* what *specific problems* this waiver is supposed to address. As I see it, these two items are required to evaluate the merit of the petition. If the petitioner fails to provide specificity then any discussion as to the merit of the waiver is based on hypotheticals. Upon study of the letter dated February 17th 2010 from Kristin L. Welsh to Scot Stone, I find that the AHA's arguments in favor of the waiver do not have the depth necessary to show that the waiver is required. The AHA does not detail what specific scenarios the waiver is supposed to address. In other words, what is it that allowing employees to transmit would enable which is not possible to do now, without the waiver? A good deal of the drilling needed by hospitals can be conducted without a waiver. If an hospital has an employee who is also an amateur, the only thing the employee is prohibited to do on behalf of the employer is to transmit. Testing the basic functionality of the system could still be performed by the employee.

Perhaps a volunteer amateur who is not an employee of the hospital would have to come in to test transmit functionality in the presence of the hospital employee. By doing so, the equipment would be tested and the hospital employee would be, for all intents and purposes, trained. None of this requires a waiver. The AHA might argue that this would be difficult to organize or may entail costs (for instance, if a drill must be conducted longer than planned because the external amateur does not arrive on time). However, the mere prospect of a logistical or financial burden to hospitals should not be enough to justify the waiver. Moreover, the AHA ought to clarify what hospitals would do with the amateur frequencies in the event of an emergency. If they plan to use amateur frequencies to coordinate with civil defense organizations or emergency responders, then I point out that the bands reserved in Part 90 ought to be enough for their needs. Now, the AHA might argue that adding amateur radio equipment is meant to enhance the robustness of the communication system of a hospital. If a hospital finds that its communication system's robustness must be enhanced, then this hospital conducted a risk analysis and

found their current system inadequate. The solution to this problem is to add redundancy in the form of additional Part 90 equipment rather than add amateur radio equipment. At any rate, I have to deal in hypotheticals here because the AHA did not disclose the *specific* problems the waiver should serve to remedy. Because the AHA does not provide the details necessary to enable an informed discussion of their request, **I submit that the FCC should not grant such waiver.**

The Proposed Waiver Is Vague

In addition, if the FCC is to request from the public comments on a proposed waiver to the rules, then the FCC should explain in *details* what the waiver would entail and what limits it would establish to avoid transforming the Amateur Service to serve the needs of businesses. On the basis of the documents available from the FCC, I believe the FCC has not provided such explanation. In effect, the FCC is asking the public to comment on a waiver of which the details have not be disclosed. I have examined the text of an actual waiver, detailed in document [DA 09-2259](#), and found that it is substantial and cannot be adequately summarized in a few concise paragraphs. Hence, I conclude that document [DA-10-365](#) does not contain the information I need to formulate an informed response to the waiver the FCC proposes to implement. The lack of details has not only led to rampant speculation among the amateur community but more importantly makes it impossible to address what specifically the FCC intends to do. In light of this, **I submit that the FCC should not grant a waiver.**

Preserve the Character of the Amateur Service

If the FCC holds that indeed document [DA-10-365](#) contains exactly the intended waiver, then this waiver does not protect the Amateur Service against potential abuse from members of the AHA. There should be quantitative limits to the drills allowed by the waiver so as to minimize disruption to the basic role of the Amateur Service. For instance, it would be clearly abusive to hold drills every week to test equipment which should be used only if all other means have failed. Additionally, the FCC should ensure that support for communication on the amateur bands is done *in addition* to the proper implementation of Part 90 facilities rather than *instead of* such facilities. Limits to the kind of actions permitted by the waiver are needed to prevent abuse. However, as it stands, document [DA-10-365](#) does not spell out any limits to the drills the waiver will permit. In light of this, **I submit that the FCC should not grant such waiver.**

Part 97 Prohibits Hospital Employees from Transmitting in a Drill

I must also comment on the AHA's assertion that Section 97.113(a) does not actually prohibit hospital employees who are also amateurs to participate in emergency drills. If it is the case, why is the AHA asking for a waiver? It seems to me the AHA is trying to have its cake and eat it too. Since we all know this is impossible, I am going to wager that the AHA knows that its interpretation of Section 97.113(a) is incorrect. Still, if demonstration is needed, I will oblige. Section 97.113(a) states the following to be a prohibited transmission: "Communications in which the station licensee or control operator has a pecuniary interest, including communications on behalf of an employer." I submit that *any* transmission on behalf of an employer is *de facto* done with "pecuniary interest." If an employer enjoins an employee to perform a transmission and the employee refuses, then the employee's performance evaluation will suffer. Consequently, salary raises or promotions will be harder to obtain. Hence, the transmission is done with "pecuniary interest."

Proposal to Preserve the Character of the Amateur Service

I have already argued above that the desire for a robust communication system is, in itself, not a valid reason for planning to use the amateur bands in the event of an emergency. However, if hospitals plan to use amateur frequencies to coordinate with amateurs who are able to provide emergency support, then using the amateur frequencies is valid. Still, rather than tainting the Amateur Service by allowing pecuniary interests, I propose to reverse the terms of the equation, so to speak:

1. Designate some bands outside the bands currently assigned to the Amateur Service as Emergency Coordination Bands. Perhaps these bands could be a subset of bands already reserved for Part 90.
2. At all times, the Amateur Service would be a secondary service on these bands.
3. Emergency responders registered with the FCC would constitute the primary service on these bands. To address the concerns of the AHA, employees of emergency responders who *also* happen to hold amateur licenses would be considered part of the primary service. **So they would not need a waiver to operate on these bands.**
4. During "peace time" (when there is neither a declared emergency nor a drill):
 1. Secondary services would only be allowed to use these bands for short transmissions to test that they are able to transmit. They would have to identify just as they normally do.

2. Primary services would be allowed to use these bands as they see fit.
5. During an emergency drill:
 1. Secondary services would be allowed to transmit only if formally invited to participate in the drill.
 2. Primary services would be allowed to transmit as needed.
6. In a declared emergency, primary and secondary services would be allowed to transmit as needed to deal with the emergency, but without ignoring the priority of primary services over secondary ones.

I realize this proposal might not be implementable “as is” but I am sure that the FCC could turn it into a workable solution. Doing this would avoid tainting the Amateur Service and would serve the needs of the AHA. It would be better than widening the door allowing “pecuniary interests” in the Amateur Service. In addition, this arrangement would eliminate the need for the waiver process detailed in document [DA 09-2259](#). Hence, because I consider that there is a solution which would allow to maintain the character of the Amateur Service and answer the needs of the AHA, **I submit that the FCC should not grant such waiver.**

Conclusion

Let me clarify that I am not against the principle that if **all** other means of communications have failed, amateur bands could be used in an emergency. Part 97 rules already allow for this. However, there is no reason to believe that the waiver requested by the AHA is a) an adequate solution, and b) a solution to a problem which cannot be solved in any other way. Hence, **I submit that the FCC should not grant such waiver.**